

## Chapter 5

### **BUILDINGS\***

- Art. I. Public Buildings Department, §§ 5-1—5-15**
- Art. II. Inspectional Services Department, §§ 5-16—5-34**
- Art. III. Designer Selection Committee, §§ 5-35—5-53**
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#### **ARTICLE I. PUBLIC BUILDINGS DEPARTMENT**

##### **Sec. 5-1. Department established.**

There shall be established a public buildings department, which shall have as its head, a public buildings commissioner. This person shall be an officer of the city to whom the provisions of laws applicable to department heads shall apply. (Ord. No. S-301, 2-1-88)

**Charter reference**—Administrative departments, Art. 6

##### **Sec. 5-2. Duties and responsibilities.**

The public buildings commissioner shall have as among his duties and responsibilities the construction, alteration, repair and maintenance of all public buildings except as otherwise may be provided for by the charter of the city. (Ord. No. S-301, 2-1-88)

##### **Sec. 5-3. Employees.**

The public buildings commissioner, subject to the civil service laws of the commonwealth, shall have the authority to appoint or hire such support staff as the work requires, and to remove any of them for cause. (Ord. No. S-301, 2-1-88)

##### **Secs. 5-4—5-15. Reserved.**

#### **ARTICLE II. INSPECTIONAL SERVICES DEPARTMENT**

##### **Sec. 5-16. Department established; duties - generally.**

(a) There shall be established an inspectional services department, which shall have as its head, a commissioner of inspectional services. This person shall be an officer of the city to whom the provisions of laws applicable to department heads shall apply.

(b) The commissioner of inspectional services shall perform the following functions:

- (1) The execution of statutes of the commonwealth relating to buildings and the state building codes, including enforcement of regulations relating to plumbing, gas and electrical wiring and shall in this capacity serve as and be the building commissioner, local inspector of buildings, or local official, all as may be referenced in the applicable general laws; and

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\***Cross references**—City engineer, Ch. 25; civil defense, Ch. 8; fire protection and prevention, Ch. 10; recycling and trash, Ch. 11; regulations regarding moving of buildings, Ch. 19, Art. XI; planning and development, Ch. 22; public works department, Ch. 25; numbering of buildings, § 26-7; zoning, Ch. 30

(2) The execution of those statutes of the commonwealth and ordinances of the city relating to zoning and the performance of such other duties as may be required, by such other statutes and ordinances as may from time to time be enacted, to be performed by a building commissioner, local inspector of buildings or local official, all as may be referenced in the applicable statutes or ordinances.

(c) The word "commissioner" in this article shall be taken to mean the commissioner of inspectional services or his duly authorized representative.

(d) All inspectors of the inspectional services department including the inspectors of plumbing and the inspectors of wires shall be subject to the immediate control, supervision and direction of the commissioner.

(e) The department shall cooperate with the operations of the building and land development service counter operated pursuant to section 22-5. (Rev. Ords. 1973, § 2-151; Ord. No. 190, 12-20-76; Ord. No. 317, 2-20-79; Ord. No. S-83, 1-21-85; Ord. No. S-301, 2-1-88; Ord. No. T-215, 2-18-92; Ord. No. V-285, 3-6-00; Ord. No. X-62, 11-17-03)

**Editor's Note**—By the terms of G.L. c. 143, § 3A, the state building code is effective throughout the state.

**State law references**—Local regulation of buildings, G.L. c. 143, § 3

#### **Sec. 5-17. Employees.**

(a) The commissioner of inspectional services, subject to the civil service laws of the commonwealth, shall have authority to appoint such numbers of inspectors, clerks and other subordinates as the work requires, and to remove any of them for cause. The inspectors shall be competent, qualified persons as required by the Massachusetts General Laws and applicable codes.

(b) No commissioner, inspector or deputy connected with the inspectional services department shall have an interest, financial or otherwise, in the performance of work or furnishing of material or appliances for the construction, alteration or maintenance of any building in the city or in the making of plans or specifications therefor, unless he is the owner thereof. No such commissioner, inspector or deputy shall be engaged in any work which is inconsistent with his or her duties or the interest of the department. (Rev. Ords. 1973, § 2-152; Ord. No. 190, 12-20-76; Ord. No. 317, 2-20-79; Ord. No. S-301, 2-1-88; Ord. No. T-215, 2-18-92; Ord. No. V-285, 3-6-00)

**Cross reference**—human resources dept. Ch. 2, Art. V.

#### **Sec. 5-18. Reports.**

In addition to other reports required by statute or ordinance, the commissioner shall file a quarterly report with the mayor and board of aldermen. The quarterly report shall contain, but not be limited to, the number of complaints filed for the quarter, the number of complaints filed for the year to date, a comparison with previous years, the status of the complaints, and any specific problems encountered with the zoning ordinance and any recommendations for correction of such problems. (Rev. Ords. 1973, § 2-153; Ord. No. 317, 2-20-79)

#### **Sec. 5-19. Residential swimming pool enclosures and lighting.**

(a) For the purpose of this section, "private swimming pool" shall mean a pool which is used for swimming or bathing in connection with a single family residence and available only to the family of the householder and his private guests, provided, however, this section shall not be applicable to any pool less than twenty-four (24) inches deep or having a surface area of less than two hundred and fifty (250) square feet, except when such pools are permanently equipped with a water recirculating system or involve structural materials.

(b) Every outdoor private swimming pool shall be enclosed at all times, whether or not filled with water, by a fence or wall not less than five feet in height, except that fences and walls of not less than four feet in height in existence prior to August 25, 1964 shall satisfy this height requirement as to outdoor private swimming pools in

existence prior to January 1, 1975. Such fence or wall shall be firmly secured at ground level and be so constructed and maintained as not to have openings, holes or gaps larger than four inches in any dimension, except for doors and gates, and except for picket fences in which case, however, the gaps between pickets shall not exceed four inches. A building may be used as part of such enclosure.

All gates or doors opening through such enclosure shall be of not less than the same height as the fence or wall and shall be equipped with a self-closing and self-catching device located not more than one foot below the top of the fence or wall for keeping the gate or door securely closed at all times when not in actual use, except that the door of any dwelling which forms a part of the enclosure need not be so equipped. Each such gate or door shall be kept locked at all times when the swimming pool enclosure is not in use.

No construction, installation or enlargement of private swimming pools shall be commenced until the commissioner of inspectional services has issued a building permit. Before work is commenced applicants shall submit an application, together with such plans and specifications as the commissioner of inspectional services may require. The commissioner of inspectional services shall review the application to determine whether the proposed work complies with the provisions of this subsection.

(c) All lighting of an outdoor private swimming pool or its enclosures shall be directed at the pool and the source of the light shall be shielded from view from any street or adjoining property.

(d) The provisions of this section shall not become applicable to private swimming pools in existence on the date of enactment of said section until the date six months subsequent to such date of enactment.

(e) Spas or hot tubs having a depth of no more than forty-eight (48) inches and no exterior dimension greater than eight (8) feet, equipped with a water circulating system shall be exempt from the fencing and self-closing gate requirements of section 5-19(b) provided the following conditions are met:

- (1) Such spas or hot tubs are equipped with a safety cover meeting the American Society for Testing and Materials (ASTM) F-1346-91 standard, as may hereafter be amended, now entitled "Standard Performance Specification for Safety Covers and Labeling Requirements For All Covers For Swimming Pools, Spas and Hot Tubs;"
- (2) The aforementioned safety cover shall be equipped with a locking device in order to keep the cover securely attached at all times when spas or hot tubs are not in actual use; and
- (3) Each such safety cover shall be kept securely attached and shall be securely locked at all times when spas or hot tubs are not in actual use, or are unattended. (Ord. No. S-143, 9-17-85; Ord. No. V-22, 6-19-95)

**Secs. 5-20—5-34. Reserved.**

### **ARTICLE III. DESIGNER SELECTION COMMITTEE**

**Sec. 5-35. Established; purpose.**

A designer selection committee is hereby established to make recommendations to the mayor whenever an architect is to be engaged by the city for any purpose involving construction, alteration, repair or maintenance of a public building, and the mayor shall consult with this committee and shall select said architect from these recommendations. At least three (3) recommendations shall be offered and the mayor may request three (3) additional recommendations. The designer selection committee shall also oversee the selection process for design services contracts subject to the provisions of section 38K of chapter 7 of the General Laws. The designer selection committee shall not oversee the selection process for design services contracts in any instance where an alternative procurement process inconsistent with this section is prescribed by state or federal laws or regulations.

The public buildings commissioner may consult with the designer selection committee regarding procurement of any design services contract not otherwise required to be overseen by the committee pursuant to the provisions of this section. (Rev. Ords. 1973, §2-346; Ord. No. Z-109, 05-07-12)

**Cross references**—Commissions and committees generally, Ch. 2, Art. VII; regulations governing appointment to and service on commissions and committees, § 2-8

**Sec. 5-36. Composition, appointment and compensation of members.**

When the public facility to be constructed is not under the jurisdiction of the school committee, the designer selection committee shall consist of six (6) members, three (3) of whom shall be appointed by the mayor, and three (3) of whom shall be selected by the board of aldermen. For school facilities, three (3) additional members shall be selected by the school committee. All of the persons serving on this committee shall serve without compensation and shall be residents of the city. (Rev. Ords. 1973, § 2-347)

**Sec. 5-37. Terms of members, vacancies, procedures.**

Members of the designer selection committee shall serve coterminous with the terms of their respective appointing authority. Vacancies in the committee shall be filled by appointment in the same manner by the designated appointing authority as the original appointments for the period of the unexpired term. The committee shall elect a chairman annually and establish rules and procedures. Committee members shall serve at the pleasure of their respective appointing authority. The public buildings department shall provide such assistance to the committee as is necessary for the exercise of the committee's responsibilities. Records of the committee shall be public documents. The committee shall make reports no less than annually to the respective appointing authorities. (Rev. Ords. 1973, § 2-348; Ord. No. 190, 12-20-76; Ord. No. 317, 2-20-79; Ord. No. S-301, 2-1-88)

**Secs. 5-38—5-53. Reserved.**

**ARTICLE IV. DESIGN REVIEW COMMITTEE**

**Sec. 5-54. Established.**

(a) A design review committee is hereby established to coordinate the design review process for any public facility which has been submitted to the committee by the mayor, board of aldermen or any other public agency or committee within the city.

(b) The design review committee shall examine the specifications prepared by the using agency and shall consult with the planning, public buildings and other city departments, or if appropriate, may request the public buildings commissioner to hire outside consultants to assist the design review committee in studying the feasibility of the proposed facility and shall consider to the extent the committee deems appropriate a range of solutions such as renewal, renovation or replacement within realistic budgetary limits and shall make a recommendation. The design review committee's study of the feasibility of the proposed facility shall include a review of indoor environmental health issues. The design review committee may make recommendations for specific program requirements for the proposed facility to address indoor environmental health issues. The design review committee shall include in its feasibility study a review of the proposed facility's use of natural resources and energy. The design review committee may make recommendations as to site planning, building design, or construction that contribute significantly to the proposed facility's efficient use and conservation of natural resources and energy. Whenever an architect is proposed to be engaged by the city in any design or consulting capacity, the design review committee shall review the contract between the city and the architect prior to its execution to assure that the scope of the work, as described in said contract, complies with the program requirements for the proposed public facility.

(c) The design review committee shall review the architect's solution for compliance with the program and time

schedule requirements and shall evaluate the quality, appropriateness and functional attributes of the architect's solution. The committee shall have periodic meetings with the architect and hold periodic presentations and reviews and shall make reports as the project moves through the various stages of design to contract development. Prior to the issuance of bid documents, design review recommendations to the architect shall be made by the design review committee in writing to the commissioner of public buildings for his approval and issued from his office. The commissioner of public buildings shall not permit the construction contract to be advertised for public bid until the design review committee certifies in writing that the plans and specifications substantially meet the program requirements of the project.

(d) During the construction of the public facility, the commissioner of public buildings shall consult with the design review committee concerning any changes in the plans or specifications that may affect the design or program of the facility and the committee shall act promptly on all matters before it. (Rev. Ords. 1973, § 2-361; Ord. No. 8, 8-12-74; Ord. No. 190, 12-20-76; Ord. No. S-301, 2-1-88; Ord. No. V-216, 12-21-98; Ord. No. Y-29, 7-9-07)

### **Sec. 5-55. Composition, appointment and compensation of members.**

(a) Voting membership. The design review committee shall consist of twelve (12) permanent voting members, four (4) appointed by the mayor, four (4) selected by the board of aldermen, and four (4) selected by the school committee. There shall be two (2) additional voting members for each facility under design review, who are community representatives who shall represent the interests of the community in which the proposed facility is to be located, and who reside in the immediate area of the facility. One community representative shall be appointed by the mayor and one shall be selected by the board of aldermen. In the event that more than one facility shall comprise a project, and where the board of aldermen determines that the resulting number of community representatives for said project is unreasonably large, it may reduce the total number of community representatives required to not fewer than two. (Ord. No. R-142, 4-21-81)

(b) Nonvoting membership. There shall be the following nonvoting members of the design review committee: one alderman, one school committee member for school department building projects, the planning director or his designee, the head of the using agency or his designee, and the public buildings commissioner or his designee. The public buildings commissioner shall also serve as secretary of the design review committee. (Rev. Ords. 1973, § 2-362; Ord. No. 8, 8-12-74; Ord. No. S-301, 2-1-88)

**Cross references**—Regulations governing appointment and service on commissions and committees, § 2-8

### **Sec. 5-56. Terms, vacancies and rules.**

(a) The members of the design review committee, excepting the community representatives, shall serve coterminous with the terms of their respective appointing authority. Vacancies in the committee shall be filled by appointment in the same manner by the same designated appointing authority as the original appointments for the period of the unexpired term. The term of community representatives shall expire upon final acceptance by the city of the facility for which they were appointed.

(b) The design review committee shall have such assistance as is reasonably necessary for the exercise of its responsibilities provided by the department of public buildings. The records of the design review committee shall be public documents. The design review committee shall elect a chairman annually and establish rules and procedures. Members shall serve at the pleasure of their respective appointing authority.

(c) It is the intent of this section that those participating in the design review process as voting members shall be a diversified group of interested citizens, independent of and not directly employed by city government, and that some of these members shall be professionally qualified.

(d) To the extent that citizens make themselves available to serve, there shall be at least one (1), but not more than two (2) voting members from each of the following professions: architect, general construction manager, electrical

engineer, mechanical engineer, structural engineer, landscape architect. Professional qualifications of voting members are desirable in the fields of city planning, traffic engineering and real estate development, but shall not be required.

(e) Whenever a vacancy in voting membership occurs, the appointing authority shall make inquiry of the public buildings commissioner and the chairman of the design review committee as to whether an appointee with particular professional qualifications is required, and after written response, the appointment shall be made so that the membership of the design review committee will be professionally balanced and will comply with the requirements and the intent of this section. Community representatives shall be appointed without regard for professional qualifications.

(f) No voting member of the design review committee shall hold an elected or salaried position with the city.

(g) All members shall serve without compensation and all voting members shall be residents of the city. All members shall serve until their successors take office.

(h) The two (2) voting members who are community representatives shall vote only on those matters concerning facilities for which they are appointed. (Rev. Ords. 1973, § 2-363; Ord. No. 8, 8-12-74; Ord. No. 190, 12-20-76; Ord. No. S-301, 2-1-88)

#### **Sec. 5-57. Other provisions.**

Any public corporation, agency, authority, commission or body of any such private organization which is empowered to construct a public or quasi-public facility within the city and which desires to submit itself to the jurisdiction of the design review committee, may enter into an agreement, in writing, with the city for this purpose, and thereafter the design review committee shall perform all of its functions and duties with respect to such facility. (Rev. Ords. 1973, § 2-364; Ord. No. 8, 8-12-74)

#### **Sec. 5-58. Site plan approval for construction or modification of municipal buildings and facilities.**

It shall be the policy of the city to apply similar standards of planning and control of density and environmental impact, when the city's public buildings and facilities are constructed or modified, as the city applies under chapter 30, Zoning, of the Revised Ordinances when petitions for changes in land use are initiated by its citizens or property owners. In implementing this policy for land in the public use district or otherwise classified city land, the prior establishment of a zoning classification or district (in accordance with section 30-4 of these Revised Ordinances) shall not be required.

(a) Whenever construction or modification of a municipal building or facility is undertaken which involves new construction or substantial change in usage, and which involves a change in: vehicular access; off-street parking requirements; site grading; drainage; landscape features; or service areas, the following procedures shall apply:

- (1) The executive department shall include in the architect's contract the requirement for preparation and submission of site plans suitable for review and approval in accordance with the procedure outlined in section 30-23 of these Revised Ordinances.
- (2) The department of planning and development shall maintain cognizance over the development of specifications, conceptual designs and site plans to determine the consistency and compatibility of such designs and plans with the city's comprehensive plan and other pertinent planning and analytical studies. The director of planning and development shall make written notification of this finding to the mayor, to the clerk of the board of aldermen, to the design review committee, and (in the case of school buildings) to the secretary of the school committee.

- (3) The design review committee shall consider the project plans, designs, and specifications not only in terms of the details of layout and construction of the building or facility, but also in terms of the site and its surrounding area. Consultations shall be made with such city departments and neighborhood groups as are considered necessary and appropriate.
- (4) Upon its approval of the initial design concept and prior to recommending that the project proceed to the detailed design phase and to the preparation of construction drawings, the design review committee shall file with the clerk of the board of aldermen its approved site plan including building floor plans and architectural schematics, along with a formal petition for site plan approval in accordance with the procedure outlined in section 30-23 of these Revised Ordinances. The design review committee shall not be required to pay a filing fee for purposes of this section.
- (5) At the earliest opportunity, the board of aldermen shall for the purposes of this section assign that petition for public hearing before its committee dealing with matters of public buildings and this committee shall hold a public hearing. Due notice of such public hearing shall be given to the abutters of the proposed building or facility and to the abutters of such abutters. The committee shall deliberate and negotiate such changes to the site plan and affix such restrictions and conditions as are in the public interest, and it shall make its report to the board of aldermen within forty-five (45) days following the public hearing.
- (6) The site plan, including building floor plans and architectural schematics, as formally approved by the board of aldermen and the mayor (and in the case of school buildings, by the school committee) shall become part of the final set of project plans and construction drawings, and they shall not be changed or altered in any manner without first being resubmitted to the design review committee and to the board of aldermen in accordance with steps (3), (4) and (5) above. The board of aldermen may waive a public hearing on a previously approved site plan if in its judgment the changes proposed are not of sufficient scope as to warrant a public hearing.

(b) The board of aldermen shall not approve an appropriation of any funds for preparation of detailed construction drawings for a project applicable under this section until the requirements of (a)(1) through (a)(6) above have been satisfied.

(c) The executive department shall not formally submit a project applicable under this section to competitive construction bid unless the requirements of (a)(1) through (a)(6) have been satisfied.

(d) The requirements of this section that are not otherwise required by law or by the charter may be waived in whole or in part by a two-thirds (2/3) vote of those members of the board of aldermen present and voting. (Rev. Ords. 1973, § 2-365; Ord. No. 8, 8-12-74; Ord. No. 102, § 4, 12-15-75; Ord. No. V-195, 9-22-98)